

## REMARKS

Attorney for Applicants submits this Letter in response to the Office Action issued on October 10, 2006. Entry of the present Letter of Response is respectfully solicited.

The Examiner has requested a Restriction of the claims under the provisions of 35 USC 121. The Examiner has indicated that the claims of the present application are directed to the following inventions:

- I. Claims 1-16 directed to a film or laminate having at least one layer which comprises a defined oxygen scavenger composition.
- II. Claims 17 to 28 directed to a defined oxygen scavenger composition. The defined oxygen scavenger composition is common with that contained in the film or laminate of Claim 1 to 16 of Group I above.

1. The claims of Groups I and II are directed to a common novel oxygen scavenger composition. It is this composition that provides patentability to all of the claims of the present application. The Examiner contends that the inventions of Group I and Group II “are independent or distinct ...and there would be a serious burden on the examiner if restriction is not required ....” It is respectfully submitted that such is not the case. The Examiner would be required to make the same review of the prior art to determine patentability of the Claims defining the invention provided by Group I and by Group II.

The Examiner contends that the inventions of Group I are distinct from that of Group II because the claimed invention of Group I is directed to a final product while the claimed invention of Group II is merely directed to the oxygen scavenger composition, per se. Merely because the composition is in a particular environment (e.g. a layer of a film or laminate) does not extend the burden of examination required by the Examiner.

For the sake of efficiency and effectiveness, it is submitted that the present Restriction should be withdrawn.

2. If the Examiner deems that the present Restriction should be maintained, than Applicants elect to prosecute the subject matter of Claims 1-16 (Group I) with traverse.

Further, the Examiner has requested Applicants to make (i) election of species to be examined with respect to the elected Group and (ii) identify the claims that read on the elected species.

Applicants elect a species of the subject invention having an oxygen scavenger composition comprising

a transition metal salt, compound or complex and  
a block copolymer comprising

- (A) a first prepolymer ( $P^A$ ) composed of mer units derived from (a) tetrahydrophthalic anhydride and (b) an alkanediol (such as hexanediol); and
- (B) a second prepolymer ( $P^B$ ) formed from caprolactone to have J groups selected from hydroxyl and/or carboxyl groups capable of reacting with the residual groups of ( $P^A$ ).

The above specie is the subject of Claims 1, 2, 3, 4, 7, 9, 10, 11, 12, and 15.

Applicants believe that the invention defined by the claims of the present application are patentably distinct and in condition for allowance. Such action is respectfully solicited.

Respectfully submitted,



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cc: M.Quatt